

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 99-2355

J.F. Rhode; Peter W. Bick; Richard D.	*	
Cross; Burton F. Dahlberg; Paula S.	*	
Forte; Bill C. Fox; Dennis T. Grendahl;	*	
Donna B. Johnson; Lonnie G. Johnson;	*	Appeal from the United States
Ramone A. Johnson; Allen C. Kaiser;	*	District Court for the District
Margaret Kaiser; Nicholas E. Mezey;	*	of Minnesota
Ronald E. Moir; Mike R. Rejsa; James	*	
A. Robb, Jr.; Peter G. Robb; Gale L.	*	
Running; Irving A. Shepard; Douglas R.	*	[UNPUBLISHED]
Solseth,	*	
	*	
Plaintiffs-Appellants,	*	
	*	
v.	*	
	*	
Divion Technology, Inc.;	*	
	*	
Defendant,	*	
	*	
Gary J. Beeman; Ronald Buck; Robert	*	
C. Szymborski; Richard T. Sundal,	*	
	*	
Defendants-Appellees.	*	

Submitted: May 12, 2000

Filed: June 9, 2000

Before WOLLMAN, Chief Judge, FAGG, Circuit Judge and HENDREN,¹ District Judge

PER CURIAM.

This is an appeal from the district court's order dismissing a complaint by investors claiming they had been defrauded. Plaintiffs-appellants allege that the dismissal was improper under Fed. R. Civ. P. 12(b)(6) and 9(b) and also under the Private Securities Litigation Reform Act of 1995 ("Reform Act"), 15 U.S.C. § 78u-4(b). We disagree and affirm the district court's order.

We review the district court's order de novo. That review convinces us that the district court correctly applied the pleading requirements and standards of both federal rules and the Reform Act in concluding that plaintiffs'-appellants' amended complaint met neither.

The district court properly concluded that, even if the facts properly pleaded by plaintiffs-appellants were deemed true, they would not establish the fraud asserted. We agree and conclude, as did the district court, that plaintiffs-appellants at best asserted "hindsight-fraud" and not legally actionable fraud. The investors (plaintiffs-appellants) apparently agreed to and did infuse short-term working capital into a struggling company which they knew might fail. When the company did fail, the investors cried "foul" and attempted to assert an action for fraud. Their assertions, properly scrutinized under the proper pleading standards, are insufficient to survive appellees' challenge.

Having satisfied ourselves that the district court, properly applying appropriate pleading standards and requirements, reached the correct result in its well-reasoned opinion, we believe further discussion of the matter is not warranted. Accordingly, we affirm the order of the district court for the reasons set forth in the district court's order. See 8th Cir. R. 47B.

¹The Honorable Jimm Larry Hendren, Chief Judge, United States District Court for the Western District of Arkansas, sitting by designation.

A true copy.

ATTEST:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.